

ATTORNEY'S DOCKET NUMBER: 2003080-0201 (SK1071-US1)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Danishefsky <i>et al.</i>	Examiner:	Robert Havlin
Serial No.:	10/551,158	Art Unit:	1626
Filed:	September 25, 2006	Confirmation:	3195
For:	Migrastatin Analogs and Uses Thereof		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Madam:

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

In response to the Election/Restriction Requirement mailed May 8, 2009, entry and consideration of the following remarks are requested. The deadline for responding to the Election/Restriction Requirement without fees was June 8, 2009. Accordingly, Applicant concurrently submits herewith a Petition for an extension of time for one month, up to, and including, July 8, 2009, pursuant to 37 C.F.R. §1.136. Accordingly, Applicant respectfully submits that the present Response is timely filed on July 8, 2009.

Claims 1-37, 48-64 and 71-78 filed in the Preliminary Amendment dated September 28, 2005 in the above-identified application are subject to a Restriction Requirement and have been divided into the following ten (10) groups:

- Group I: claims(s) 1-37, 48-55, 71-78, in part, drawn to a product where $n=1$;
- Group II: claims(s) 1-37, 48-55, 71-78, in part, drawn to a product where $n=2$;
- Group III: claims(s) 1-37, 48-55, 71-78, in part, drawn to a product where $n=3$;
- Group IV: claims(s) 1-37, 48-55, 71-78, in part, drawn to a product where $n=4$;
- Group V: claims(s) 1-37, 48-55, 71-78, in part, drawn to a product where $n=5$;
- Group VI: claims(s) 56-64, in part, drawn to methods of using a product where $n=1$;
- Group VII: claims(s) 56-64, in part, drawn to methods of using a product where $n=2$;
- Group VIII: claims(s) 56-64, in part, drawn to methods of using a product where $n=3$;

Group IX: claims(s) 56-64, in part, drawn to methods of using a product where $n=4$; and
Group X: claims(s) 56-64, in part, drawn to methods of using a product where $n=5$.

In a Preliminary Amendment concurrently filed herewith, Applicant has amended claims 1-6, 21-37, 48-64 and 71-78 to recite only products wherein $n=3$, corresponding to Group III (i.e., claim(s) 1-37, 48-55, 71-78 in part). Thus, the Restriction Requirement among Groups I, II, III, IV and V is rendered moot.

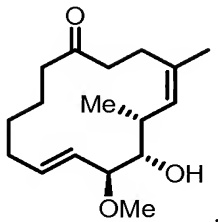
Because claims directed to methods of using a product depend from claims 1-6, 21-37, 48-64 and 71-78, the claims encompassed by Group VIII (i.e., claim(s) 56-64, in part) also recite only those methods of using a product wherein $n=3$. Thus, the Restriction Requirement among Groups VI, VII, VIII, IX and X is also rendered moot.

The Restriction Requirement between the products of Group III and the methods of Group VIII thus remains. Applicant traverses this portion of the Restriction Requirement. Applicant submits that a search of the subject matter of products of Group III would be co-extensive with the subject matter of corresponding methods of using those products of Group VIII. Thus, search and examination of Group VIII would pose no undue burden on the Examiner. Applicant respectfully requests that Group III and Group VIII be examined together. Thus, reconsideration and withdrawal of the remaining portion of the Restriction Requirement is respectfully requested.

In the event the Examiner disagrees with Applicant, and proceeds to examine Group III only, then Applicant requests that once the products of Group III (i.e., claims 1-37, 48-55, 71-78, in part, drawn to a product where $n=3$) are found to be allowable, that the Examiner rejoin the corresponding method claims of Group VIII (i.e., claims 56-64, in part, drawn to a method of using a product where $n=3$) by extending his consideration to these corresponding method claims.

Election of Species Requirement

To comply with the Election of Species Requirement, Applicant elects the compound of the following structure,



i.e., (4Z,6R,7S,8S,9E)-7-hydroxy-8-methoxy-4,6-dimethylcyclotetradeca-4,9-dienone. Claims 1-5, 7-13, 23-24, 34-35, 49-64, 71-73, and 76-78 read on the elected species.

Please charge any necessary fees or credit any overpayments to our Deposit Account No. 03-1721.

Respectfully submitted,

Dated: July 8, 2009

/Julie Anne Knight/

Julie Anne Knight

Reg. No. 48,867

PATENT GROUP
CHOATE, HALL & STEWART
Two International Place
Boston, MA 02110
Tel: (617) 248-5227
Fax: (617) 502-5002
jknight@choate.com